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ONE HUNDRED EIGHTH CONGRESS

Congress of the United States
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COMMITTEE ON THE JUDICIARY

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June 13, 2003

The Honorable John Ashcroft
Attorney General of the United States
U.S. Department of Justice
10th and Constitution Avenue, N.W.
Washington, DC 20530

Dear Mr. Attorney General:

I am writing to request that you appoint a special counsel to conduct an investigation on the allegations that Westar Energy Inc. (formerly Western Resources) made political donations to members of Congress in exchange for legislative favors. I believe that the appointment of a special counsel is warranted because it not only involves allegations of wrongdoing by high ranking Republican officials, but because you are directly conflicted because you have received campaign contributions for your last Senate race from two of the leading participants in this affair.

Under the Department's regulations, the Attorney General is required to appoint a special counsel when (1) a "criminal investigation of a person or matter is warranted," (2) the investigation "by a United States Attorney's Office or litigating Division of the Department of Justice would present a conflict of interest for the Department," and (3) "it would be in the public interest to appoint an outside Special Counsel to assume responsibility for the matter."¹

We know that Westar donated \$56,500 to campaign committees associated with key Republican lawmakers, including House Majority Leader Tom DeLay (TX), House Energy and Commerce Committee Chairman W. J. "Billy" Tauzin (LA), Representative Joe Barton (TX), and Senator Richard Shelby (AL). According to internal Westar e-mails and memos,

¹28 C.F.R. Sec. 600.1 (2002).

Representative Barton solicited contributions for his GOP colleagues and then inserted an amendment for an exemption sought by the company into energy legislation.²

A May 20, 2002, e-mail from Westar Vice President Douglas Lawrence to Douglas T. Lake, an Executive Vice President, said in part, "We are working on getting our grandfather provision on (the Public Utility Holding Company Act) PUHCA repeal into the Senate version of the energy bill. It requires working with the Conference committee.... We have a plan for participation to get a seat at the table, which has been approved by (Chief Executive Officer) David (Wittig), the total package will be \$31,500 in hard money (individual), and \$25,000 in soft money (corporate)."³ This set of facts is obviously very troubling, and creates at least the appearance of a quid pro quo.

The conflict of interest is compounded by the fact that during your last campaign for U.S. Senate, you received a \$2,000 donation from Westar lobbyist Richard Bornemann who allegedly steered the Westar donations to the Republican lawmakers on this legislative matter. Additionally, you received a \$500 contribution from Carl Koupal, Chief Administrator of Westar, who is one of the company executives implicated in the scandal.

In my judgement, under the present set of circumstances, all three factors set forth by your Special Counsel Regulations would appear to be met. The trading of campaign contributions in exchange for legislative favors in the form of a special legislative provision, would, if true, constitute a federal crime.⁴ Investigating high ranking Republicans by an Attorney General who has himself received campaign contributions from the entity involved constitutes a conflict of interest on two levels – the parties being investigated and the person in charge of the Justice Department. Only a Special Counsel could offer the public the assurances that the investigation is being done fairly and impartially.

As a result, in order to ensure a fair investigation that is in the public's interest I am calling on you to appoint an outside Special Counsel, with no ties to the Republican Party or the

²Rep. Barton subsequently withdrew the amendment after the company was targeted for an unrelated grand jury investigation.

³Thomas B. Edsall, "Firm Saw Link in Favor, Donations," *Washington Post*, June 6, 2003.

⁴18 U.S.C. Sec. 600 & Sec. 601. It is a crime to promise or threaten to deny any public benefit "provided for or made possible in whole or in part by any act of Congress . . . as consideration . . . for any political activity or for the support of . . . any candidate."

The Honorable John Ashcroft

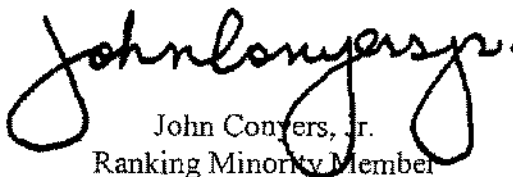
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Bush Administration, to investigate these troubling events. I think it is in the interest of all impacted parties that we have an independent investigation of this matter.

I look forward to promptly hearing whether you will appoint a Special Counsel and, if not, the reason for your decision. Should you have any questions or concerns about this request, please feel free to contact me through the House Judiciary Committee Staff, 2142 Rayburn House Office Building, tel. 202-225-6504, fax 202-225-4423.

Sincerely,

A handwritten signature in black ink, reading "John Conyers, Jr.", with a large, stylized flourish at the end.

John Conyers, Jr.
Ranking Minority Member

cc: F. James Sensenbrenner, Jr., Chairman
Committee on the Judiciary